



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

**[EPA-HQ-SFUND-2010-1086; FRL-9979-68-OLEM]**

**RIN 2050-AG67**

**Addition of a Subsurface Intrusion Component to the Hazard Ranking System;  
Corrections**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Correcting amendments.

**SUMMARY:** On January 9, 2017, the Environmental Protection Agency published a final rule which added subsurface intrusion component to the Superfund Hazard Ranking System. That document inadvertently failed to update the Table of Contents and contained a few other typographical errors. This document corrects the final regulation.

**DATES:** This correction is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Terry Jeng, phone: (703) 603-8852, email: [jeng.terry@epa.gov](mailto:jeng.terry@epa.gov), Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mailcode 5204P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:** This is EPA's erratum to the final rule titled Addition of a Subsurface Intrusion Component to the Hazard Ranking System, published January 9, 2017 (82 FR 2760). This is the second set of corrections. The first set of corrections was published in

the *Federal Register* on January 31, 2018 (83 FR 4430). This document augments those corrections.

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. *See Utility Solid Waste Activities Group v. EPA*, 236 F.3d 749, 752 (D.C. Cir. 2001). We have determined that there is good cause for making these correcting amendments final without prior proposal and opportunity for public comment. Notice and comment is unnecessary because these administrative or clerical corrections govern the methodology of how EPA, rather than the public or industry, evaluates contaminated sites under the Hazard Ranking System. Similarly, notice and comment is impracticable and contrary to the public interest because the correcting amendments will more quickly ensure that EPA is following the proper procedures to evaluate potential threats to public health from releases of hazardous substances, pollutants, or contaminants. Thus, good cause exists to proceed without notice and public comment.

These correcting amendments are effective immediately upon publication. Section 553(d) of the APA, 5 U.S.C. 553(d), provides that final rules shall not become effective until 30 days after publication in the Federal Register, “except . . . as otherwise provided by the agency for good cause,” among other exceptions. The purpose of this provision is to “give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996); *see also United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). Thus, in determining whether good cause exists to waive the 30-day delay, an agency should “balance the necessity for immediate

implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.’’

*Gavrilovic*, 551 F.2d at 1105. EPA has determined that there is good cause for making these correcting amendments effective immediately because, as stated above, the corrections govern how EPA, rather than the public or industry, applies the Hazard Ranking System to evaluate potential threats to public health from releases of hazardous substances, pollutants, or contaminants. Accordingly, EPA finds that good cause exists under section 553(d)(3) to make this rule effective immediately upon publication.

#### **List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 29, 2018.

---

Barry N. Breen,  
Acting Assistant Administrator,  
Office of Land and Emergency Management.

40 CFR part 300 is corrected as follows:

**PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION  
CONTINGENCY PLAN**

1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Amend Appendix A to Part 300 by:

- a. In the Table of Contents revising the entries for “5.0” through “5.3”; and
- b. Revising Table 2-5, Table 5-16, and Table 7-1.

The revisions read as follows:

**APPENDIX A TO PART 300—THE HAZARD RANKING SYSTEM**

***Table of Contents***

**List of Figures**

**List of Tables**

\* \* \* \* \*

**5.0 Soil Exposure and Subsurface Intrusion Pathway.**

**5.0.1 Exposure components.**

**5.1 Soil exposure component.**

**5.1.0 General considerations.**

**5.1.1 Resident population threat.**

**5.1.1.1 Likelihood of exposure.**

**5.1.1.2 Waste characteristics.**

**5.1.1.2.1 Toxicity.**

**5.1.1.2.2 Hazardous waste quantity.**

**5.1.1.2.3 Calculation of waste characteristics factor category value.**

**5.1.1.3 Targets.**

**5.1.1.3.1 Resident individual.**

- 5.1.1.3.2 Resident population.
  - 5.1.1.3.2.1 Level I concentrations.
  - 5.1.1.3.2.2 Level II concentrations.
  - 5.1.1.3.2.3 Calculation of resident population factor value.
- 5.1.1.3.3 Workers.
- 5.1.1.3.4 Resources.
- 5.1.1.3.5 Terrestrial sensitive environments.
- 5.1.1.3.6 Calculation of resident population targets factor category value.
- 5.1.1.4 Calculation of resident population threat score.
- 5.1.2 Nearby population threat.
  - 5.1.2.1 Likelihood of exposure.
    - 5.1.2.1.1 Attractiveness/accessibility.
    - 5.1.2.1.2 Area of contamination.
    - 5.1.2.1.3 Likelihood of exposure factor category value.
  - 5.1.2.2 Waste characteristics.
    - 5.1.2.2.1 Toxicity.
    - 5.1.2.2.2 Hazardous waste quantity.
    - 5.1.2.2.3 Calculation of waste characteristics factor category value.
  - 5.1.2.3 Targets.
    - 5.1.2.3.1 Nearby individual.
    - 5.1.2.3.2 Population within 1 mile.
    - 5.1.2.3.3 Calculation of nearby population targets factor category value.
  - 5.1.2.4 Calculation of nearby population threat score.
- 5.1.3 Calculation of soil exposure component score.
- 5.2 Subsurface intrusion component.
- 5.2.0 General considerations.
- 5.2.1 Subsurface intrusion component.
  - 5.2.1.1 Likelihood of exposure.
    - 5.2.1.1.1 Observed exposure.
    - 5.2.1.1.2 Potential for exposure.
      - 5.2.1.1.2.1 Structure containment.
      - 5.2.1.1.2.2 Depth to contamination.
      - 5.2.1.1.2.3 Vertical migration.
      - 5.2.1.1.2.4 Vapor migration potential.
      - 5.2.1.1.2.5 Calculation of potential for exposure factor value.
    - 5.2.1.1.3 Calculation of likelihood of exposure factor category value.
  - 5.2.1.2 Waste characteristics.
    - 5.2.1.2.1 Toxicity/degradation.
      - 5.2.1.2.1.1 Toxicity.
      - 5.2.1.2.1.2 Degradation.
        - 5.2.1.2.1.3 Calculation of toxicity/degradation factor value.
    - 5.2.1.2.2 Hazardous waste quantity.
    - 5.2.1.2.3 Calculation of waste characteristics factor category value.
  - 5.2.1.3 Targets.
    - 5.2.1.3.1 Exposed individual.
    - 5.2.1.3.2 Population.

- 5.2.1.3.2.1 Level I concentrations.
- 5.2.1.3.2.2 Level II concentrations.
- 5.2.1.3.2.3 Population within area(s) of subsurface contamination.
- 5.2.1.3.2.4 Calculation of population factor value.
- 5.2.1.3.3 Resources.
- 5.2.1.3.4 Calculation of targets factor category value.
- 5.2.2 Calculation of subsurface intrusion component score.
- 5.3 Calculation of the soil exposure and subsurface intrusion pathway score.

\* \* \* \* \*

**TABLE 2-5 HAZARDOUS WASTE QUANTITY EVALUATION EQUATIONS**

Tier	Measure	Units	Equation for assigning value <sup>a</sup>
A	Hazardous constituent quantity (C)	lb	C
B <sup>b</sup>	Hazardous wastestream quantity (W)	lb	W/5,000
C <sup>b</sup>	Volume (V)		
	Landfill	yd <sup>3</sup>	V/2,500
	Surface impoundment	yd <sup>3</sup>	V/2.5
	Surface impoundment (buried/backfilled)	yd <sup>3</sup>	V/2.5
	Drums <sup>c</sup>	gallon	V/500
	Tanks and containers other than drums	yd <sup>3</sup>	V/2.5
	Contaminated soil	yd <sup>3</sup>	V/2,500
	Pile	yd <sup>3</sup>	V/2.5
	Other	yd <sup>3</sup>	V/2.5
D <sup>b</sup>	Area (A)		
	Landfill	ft <sup>2</sup>	A/3,400
	Surface impoundment	ft <sup>2</sup>	A/13
	Surface impoundment (buried/backfilled)	ft <sup>2</sup>	A/13
	Land treatment	ft <sup>2</sup>	A/270
	Pile <sup>a</sup>	ft <sup>2</sup>	A/13
	Contaminated soil	ft <sup>2</sup>	A/34,000

<sup>a</sup> Do not round to nearest integer.

<sup>b</sup> Convert volume to mass when necessary: 1 ton=2,000 pounds=1 cubic yard=4 drums=200 gallons.

<sup>c</sup> If actual volume of drums is unavailable, assume 1 drum=50 gallons.

<sup>d</sup> Use land surface area under pile, not surface area of pile.

\* \* \* \* \*

**TABLE 5-16 VALUES FOR VAPOR PRESSURE AND HENRY'S CONSTANT**

Vapor Pressure (Torr)	Assigned Value
Greater than 10	3
1 to 10	2
Less than 1	0
Henry's Constant (atm-m <sup>3</sup> /mol)	Assigned Value
Greater than 10 <sup>-3</sup>	3
Greater than 10 <sup>-4</sup> to 10 <sup>-3</sup>	2
10 <sup>-5</sup> to 10 <sup>-4</sup>	1
Less than 10 <sup>-5</sup>	0

\* \* \* \* \*

**TABLE 7-1 HRS FACTORS EVALUATED DIFFERENTLY FOR RADIONUCLIDES**

Ground water pathway	Status <sup>a</sup>	Surface water pathway	Status <sup>a</sup>	Soil exposure component of SESSI pathway	Status <sup>a</sup>	Subsurface intrusion component of SESSI pathway	Status <sup>a</sup>	Air pathway	Status <sup>a</sup>
<i>Likelihood of Release</i>		<i>Likelihood of Release</i>		<i>Likelihood of Exposure</i>		<i>Likelihood of Exposure</i>		<i>Likelihood of Release</i>	
Observed Release	Yes	Observed Release	Yes	Observed Contamination	Yes	Observed Exposure	Yes	Observed Release	Yes
Potential to Release	No	Potential to Release	No	Attractiveness/ Accessibility to Nearby Residents	No	Potential for Exposure	Yes	Gas Potential to Release	No
Containment	No	Overland Flow Containment	No	Area of Contamination	No	Structure Containment	No	Gas Containment	No
Net Precipitation	No	Runoff	No			Depth to Contamination	Yes	Gas Source Type	No
Depth to Aquifer	No	Distance to Surface water	No			Vertical migration	No	Gas Migration Potential	No
Travel Time	No	Flood Frequency	No			Vapor Migration Potential	No	Particulate Potential to Release	No
		Flood Containment	No			Area of Observed Exposure	No	Particulate Containment	No
						Area of Subsurface Contamination	No	Particulate Source Type	No
								Particulate Migration Potential	No
<i>Waste Characteristics</i>		<i>Waste Characteristics</i>		<i>Waste Characteristics</i>		<i>Waste Characteristics</i>		<i>Waste Characteristics</i>	
Toxicity	Yes	Toxicity/ Ecotoxicity	Yes/Yes	Toxicity	Yes	Toxicity/ Degradation	Yes/Yes	Toxicity	Yes
Mobility	No	Persistence/ Mobility	Yes/No	Hazardous Waste Quantity	Yes	Hazardous Waste Quantity	Yes	Mobility	No
Hazardous Waste Quantity	Yes	Bioaccumulation Potential	No					Hazardous Waste Quantity	Yes
		Hazardous Waste Quantity	Yes						
<i>Targets</i>		<i>Targets</i>		<i>Targets</i>		<i>Targets</i>		<i>Targets</i>	
Nearest Well	Yes <sup>b</sup>	Nearest Intake	Yes <sup>b</sup>	Resident Individual	Yes <sup>b</sup>	Exposed Individual	Yes <sup>b</sup>	Nearest Individual	Yes <sup>b</sup>
Population	Yes <sup>b</sup>	Drinking Water Population	Yes <sup>b</sup>	Resident Population	Yes <sup>b</sup>	Population	Yes <sup>b</sup>	Population	Yes <sup>b</sup>
Resources	No	Resources	No	Workers	No	Resources	No	Resources	No
Wellhead	No	Sensitive	Yes <sup>b</sup>	Resources	No			Sensitive	No

Protection Area		Environments						Environments	
		Human Food Chain Individual	Yes <sup>b</sup>	Terrestrial Sensitive Environments	No				
		Human Food Chain Population	Yes <sup>b</sup>	Nearby Individual	No				
				Population Within 1 Mile	No				

a – Factors evaluated differently are denoted by “yes”; factors not evaluated differently are denoted by “no”.

b – Difference is in the determination of Level I and Level II concentrations.

\* \* \* \* \*

[FR Doc. 2018-16605 Filed: 8/2/2018 8:45 am; Publication Date: 8/3/2018]